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REMARKS/ARGUMENTS

Claims 1-11 are pending in this application. By this Amendment, Applicants amend the Specification and claim 3.

The Examiner changed the citation of Reference 13 in the Information Disclosure Statement filed August 21, 2003 from JP 2000-219973 to JP 2000-219943. Applicants hereby confirm that JP 2000-219943 is the correct citation.

The Specification was objected to for allegedly containing minor informalities. Applicants have amended the Specification to correct the minor informalities noted by the Examiner. Accordingly, Applicants respectfully request reconsideration and withdrawal of the objection to the Specification.

Claim 3 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claim 3 has been amended to correct the informality noted by the Examiner. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 3 under 35 U.S.C. § 112, second paragraph.

Claims 1-11 were rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-17 of U.S. Patent No. 6,491,765 in view of Hashimoto et al. (JP 2000-219943) and ASM Handbook (Vol. 7, Powder Metallurgy).

In the accompanying Terminal Disclaimer, Applicants have disclaimed the terminal portion of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of commonly owned U.S. Patent No. 6,491,765.

Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 1-11 under the judicially created doctrine of obvious type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,491,765 in view of Hashimoto et al. and ASM Handbook.

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The Examiner alleged that claims 1-11 are directed to an invention not patentably distinct from claims 1-17 of commonly assigned U.S. Patent No. 6,491,765. Furthermore, claims 1-11 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Okayama et al. (U.S. 6,491,765).

U.S. Patent No. 6,491,765 and the present claimed invention were, at the time the invention was made, owned by the same company or subject to an obligation of assignment to the same company. Accordingly, Applicants submit herewith a Declaration under 37 C.F.R. § 1.130 which indicates that U.S. Patent No. 6,491,765 and the present claimed invention were, at the time the invention was made, owned by the same company or subject to an obligation of assignment to the same company. Therefore, Applicants respectfully submit that U.S. Patent No. 6,491,765 is disqualified as prior art in a rejection under 35 U.S.C. § 103(a) in the present application.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-11 under 35 U.S.C. § 103(a) as being obvious over Okayama et al. (U.S. Patent No. 6,491,765).

In view of the foregoing amendments and remarks, Applicants respectfully submit that claim 1 is allowable. Claims 2-11 depend upon claim 1, and are therefore allowable for at least the reasons that claim 1 is allowable.

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance are solicited.

To the extent necessary, Applicants petition the Commissioner for a One-Month extension of time, extending to March 29, 2006, the period for response to the Office Action dated November 29, 2005.

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The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,

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